

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 705

Introduced by Senator Leno

February 18, 2011

An act to amend Sections 328 and 328.2 of, and to amend the heading of Chapter 2.2 (commencing with Section 328) of Part 1 of Division 1 of, *and to add Sections 329 and 329.2 to*, the Public Utilities Code, relating to natural gas.

LEGISLATIVE COUNSEL'S DIGEST

SB 705, as amended, Leno. Natural gas: service and safety.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including gas corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. The Public Utilities Act authorizes the commission to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or services to be furnished, imposed, observed, and followed by specified public utilities, including gas corporations.

~~This bill would require each gas corporation that provides basic gas service to develop and implement a policy for the safe operation and maintenance of its gas plant, as defined, sufficient to prevent accidents, explosions, fires, and dangerous conditions, and to protect the public and its employees. The bill would require that the policy have priority over cost minimization considerations and be consistent with best practices in the gas industry and with federal pipeline safety statutes and regulations. The bill would require the commission to approve or revise and improve the policy by June 30, 2012. The bill would require~~

~~that all revenues received by the gas corporation that are authorized by the commission for service and safety purposes, in furtherance of the policy, be expended by the gas corporation only for the purposes authorized by the commission. The bill would require the commission to authorize a gas corporation to recover sufficient revenues and employee staffing to provide for prompt provision of service consistent with the policy in its distribution rate~~ *revise existing provisions relative to restructuring of the natural gas industry to declare that it is the policy of the state to place safety of the public and gas corporation employees as the top priority and require the commission to require that the distribution rate of a gas corporation include sufficient revenues and employee staffing to provide for prompt provision of service to the public consistent with this policy. The bill would require each gas corporation to develop a service and safety plan, as specified, for the safe and reliable operation of its gas plant, as defined, and would require the commission to accept, modify, or reject the plan by December 31, 2012. The bill would require that the plan be periodically reviewed and updated. The bill would require that the commission ensure that each gas corporation have sufficient revenues to effectively implement the service and safety plan while preventing ratepayers from directly or indirectly subsidizing unreasonable or imprudent actions by gas corporations, as specified. The bill would require that all revenues received by a gas corporation that are authorized by the commission for implementation of the safety policy, or development and implementation of the service and safety plan, be expended only for the purposes authorized by the commission. The bill would require the commission to dedicate sufficient resources to effectively oversee the implementation of the service and safety plan approved by the commission.*

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Chapter 2.2 (commencing with
2 Section 328) of Part 1 of Division 1 of the Public Utilities Code
3 is amended to read:

4
5 CHAPTER 2.2. NATURAL GAS SAFETY AND SERVICE
6

7 SEC. 2. Section 328 of the Public Utilities Code is amended
8 to read:

9 328. The Legislature finds and declares all of the following:

10 (a) In order to ensure that all core customers of a gas corporation
11 continue to receive safe basic gas service, each existing gas
12 corporation shall continue to provide this essential service.

13 ~~(b) (1) Each gas corporation that provides basic gas service~~
14 ~~shall develop and implement a policy for the safe operation and~~
15 ~~maintenance of its gas plant sufficient to prevent accidents,~~
16 ~~explosions, fires, and dangerous conditions, and to protect the~~
17 ~~public and its employees. The policy shall have priority over cost~~
18 ~~minimization considerations and shall be consistent with best~~
19 ~~practices in the gas industry and with federal pipeline safety statutes~~
20 ~~(Chapter 601 (commencing with Section 60101) of Subtitle VIII~~
21 ~~of Title 49 of the United States Code) and the regulations adopted~~
22 ~~by the United States Department of Transportation pursuant to~~
23 ~~those statutes.~~

24 ~~(2) The commission shall approve or revise and approve the~~
25 ~~policy developed and implemented by each gas corporation~~
26 ~~pursuant to paragraph (1) by June 30, 2012.~~

27 ~~(e) (1)~~

28 (b) A customer shall not be required to pay separate fees for
29 utilizing services that protect public or customer safety.

30 ~~(2) All revenues received by the gas corporation that are~~
31 ~~authorized by the commission for service and safety purposes, in~~
32 ~~furtherance of the policy developed and implemented by the gas~~
33 ~~corporation and approved by the commission pursuant to~~

1 subdivision (b), shall be expended by the gas corporation only for
2 the purposes authorized by the commission.

3 ~~(d) The commission and gas corporation shall provide~~
4 ~~opportunities for full and on-going participation by public utility~~
5 ~~employees in the development and implementation of service and~~
6 ~~safety policy, with the objective of developing an industrywide~~
7 ~~culture of safety that will prevent accidents, explosions, fires, and~~
8 ~~dangerous conditions for the protection of the public and gas~~
9 ~~corporation employees.~~

10 *(c) It is the policy of the state that the commission and each gas*
11 *corporation place safety of the public and gas corporation*
12 *employees as the top priority.*

13 SEC. 3. Section 328.2 of the Public Utilities Code is amended
14 to read:

15 328.2. (a) The commission shall require each gas corporation
16 to provide bundled basic gas service to all core customers in its
17 service territory unless the customer chooses or contracts to have
18 natural gas purchased and supplied by another entity.

19 (b) A public utility gas corporation shall continue to be the
20 exclusive provider of revenue cycle services to all customers in
21 its service territory, except that an entity purchasing and supplying
22 natural gas under the commission's existing core aggregation
23 program may perform billing and collection services for its
24 customers under the same terms as currently authorized by the
25 commission, and except that a supplier of natural gas to noncore
26 customers may perform billing and collection for natural gas supply
27 for its customers.

28 (c) The gas corporation shall continue to calculate its charges
29 for services provided by that corporation. If the commission
30 establishes credits to be provided by the gas corporation to core
31 aggregation or noncore customers who obtain billing or collection
32 services from entities other than the gas corporation, the credit
33 shall be equal to the billing and collection services costs actually
34 avoided by the gas corporation.

35 (d) The commission shall require the distribution rate to continue
36 to include after-meter services and shall authorize sufficient
37 revenues and employee staffing to provide for prompt provision
38 of these services to the public, consistent with the policy developed
39 and implemented by the gas corporation and approved by the
40 commission pursuant to subdivision ~~(b)~~ (c) of Section 382.

1 *SEC. 4. Section 329 is added to the Public Utilities Code, to*
2 *read:*

3 329. (a) (1) *Each gas corporation shall develop a service and*
4 *safety plan for the safe and reliable operation of its gas plant that*
5 *implements the policy of paragraph (c) of Section 328.*

6 (2) *By December 31, 2012, the commission shall review and*
7 *accept, modify, or reject the plan for each gas corporation as part*
8 *of a proceeding that includes a hearing.*

9 (3) *Each gas corporation shall implement its approved plan.*

10 (4) *The commission shall require each gas corporation to*
11 *periodically review and update the plan, and the commission shall*
12 *review and accept, modify, or reject an updated plan at regular*
13 *intervals thereafter. The commission shall, pursuant to Section*
14 *1701.1, determine whether a proceeding on a proposed update to*
15 *a plan requires a hearing, consistent with subdivision (d).*

16 (b) *The service and safety plan developed and implemented*
17 *pursuant to subdivision (a) shall be consistent with best practices*
18 *in the gas industry and with federal pipeline safety statutes*
19 *(Chapter 601 (commencing with Section 60101) of Subtitle VIII*
20 *of Title 49 of the United States Code) and the regulations adopted*
21 *by the United States Department of Transportation pursuant to*
22 *those statutes.*

23 (c) *The service and safety plan developed and implemented*
24 *pursuant to subdivision (a) shall set forth how the gas corporation*
25 *will implement the policy established in paragraph (c) of Section*
26 *328 and achieve each of the following:*

27 (1) *Identify and minimize hazards and systemic risks in order*
28 *to prevent accidents, explosions, fires, and dangerous conditions*
29 *and protect the public and its employees.*

30 (2) *Identify the safety-related systems that will be deployed to*
31 *eliminate or minimize hazards, including adequate documentation*
32 *of gas plant history and capability.*

33 (3) *Provide adequate storage and transportation capacity to*
34 *reliably and safely deliver gas to all customers consistent with*
35 *rules authorized by the commission governing core and noncore*
36 *reliability and curtailment, including provisions for expansion,*
37 *replacement, preventive maintenance, and reactive maintenance*
38 *and repair of gas plant.*

1 (4) *Provide for effective patrol and inspection of the gas plant*
2 *to detect leaks and other compromised facility conditions and to*
3 *effect timely repairs.*

4 (5) *Provide for appropriate and effective system controls, with*
5 *respect to both equipment and personnel procedures, to limit the*
6 *damage from accidents, explosions, fires, and dangerous*
7 *conditions.*

8 (6) *Provide timely response to customer and employee reports*
9 *of leaks and other hazardous conditions and emergency events,*
10 *including disconnection, reconnection, and pilot-lighting*
11 *procedures.*

12 (7) *Include appropriate protocols for determining maximum*
13 *allowable operating pressures on relevant pipeline segments,*
14 *including all necessary documentation affecting the calculation*
15 *of maximum allowable operating pressures.*

16 (8) *Prepare for, prevent, or minimize damage from, and respond*
17 *to, earthquakes and other major events.*

18 (9) *Exceed the minimum standards for safe design, construction,*
19 *installation, operation, and maintenance of gas transmission and*
20 *distribution facilities prescribed by regulations issued by the United*
21 *States Department of Transportation in Part 192 of Title 49 of the*
22 *Code of Federal Regulations.*

23 (10) *Ensure an adequate number of properly trained gas*
24 *corporation employees to carry out the plan.*

25 (11) *Any additional matter that the commission determines*
26 *should be included in the plan.*

27 (d) *The commission and gas corporation shall provide*
28 *opportunities for full and on-going participation by gas corporation*
29 *employees in the development and implementation of the service*
30 *and safety plan, with the objective of developing an industry-wide*
31 *culture of safety that will prevent accidents, explosions, fires, and*
32 *dangerous conditions for the protection of the public and gas*
33 *corporation employees.*

34 SEC. 5. *Section 329.2 is added to the Public Utilities Code, to*
35 *read:*

36 329.2. (a) *The commission shall take all reasonable and*
37 *appropriate actions necessary to carry out the policy of paragraph*
38 *(c) of Section 328 consistent with the principle of just and*
39 *reasonable cost-based rates.*

1 ***(b) The commission shall ensure that each gas corporation has***
2 ***sufficient revenues to effectively implement the service and safety***
3 ***plan required by Section 329. In implementing this section, the***
4 ***commission shall prevent ratepayers from directly or indirectly***
5 ***subsidizing unreasonable or imprudent actions by gas***
6 ***corporations, including both of the following:***

7 ***(1) The commission shall not allow the recovery, directly or***
8 ***indirectly, of expenses from ratepayers that are incurred by the***
9 ***gas corporation for any of the following:***

10 ***(A) Data gathering or evaluation proximately caused by***
11 ***inadequate historical compliance with any applicable state or***
12 ***federal standards for record-keeping or by the utility's failure to***
13 ***observe reasonable record-keeping and data maintenance***
14 ***practices.***

15 ***(B) Inspection work, including retrofitting and smart pigging,***
16 ***proximately caused by unreasonable reliance on faulty records or***
17 ***inadequate data concerning pipeline characteristics.***

18 ***(C) Maintenance work proximately caused by deferred***
19 ***maintenance or other activities forecast and authorized in prior***
20 ***rate cases.***

21 ***(2) In any proceeding addressing the gas corporation's recovery***
22 ***of expenses or capital investments in pipeline reliability, including***
23 ***installation of new transmission pipeline valves or other pressure***
24 ***control systems and the replacement of transmission pipes, the***
25 ***commission shall ensure that:***

26 ***(A) The investment is supported by a cost versus benefit analysis***
27 ***that considers alternatives to promote safety of the pipeline system.***

28 ***(B) The adopted ratemaking fairly accounts for any prior failure***
29 ***by the gas corporation to carry out its obligation to safely***
30 ***construct, operate, and maintain its gas plant.***

31 ***(c) All revenues received by the gas corporation that are***
32 ***authorized by the commission for implementation of the safety***
33 ***policy, or for the development and implementation of the service***
34 ***and safety plan, shall be expended by the gas corporation only for***
35 ***the purposes authorized by the commission. The commission shall***
36 ***enact appropriate rules to ensure that moneys are appropriately***
37 ***spent on authorized activities or returned to ratepayers.***

38 ***(d) The commission shall dedicate sufficient resources to***
39 ***effectively oversee the implementation of the service and safety***
40 ***plan approved by the commission pursuant to Section 329,***

1 *including reviewing documentation, and timely inspections, repairs,*
2 *and responses to abate or address hazardous conditions. The*
3 *commission's budget shall reflect the commission's judgment about*
4 *sufficient resources.*

5 ~~SEC. 4.~~

6 SEC. 6. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.